IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

TUESDAY, THE 21ST NOVEMBER 2006 / 30TH KARTHIKA 1928

SA.No. 213 of 1999(A)

AS.11/1998 of SUB COURT,KOTTARAKKARA
OS.167/1993 of MUNSIFF COURT, PUNALUR

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APPELLANT:

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1. STATE OF KERALA, REPRESENTED BY THE DISTRICT COLLECTOR, KOLLAM.

2. THE TAHSILDAR, PATHARAPURAM TALUK.

BY GOVERNMENT PLEADER SMT.LAKSHMI RANI.

RESPONDENTS:

N.BALAKRISHNA PILLAI, NEPHEW OF PACHU PILLAI,
RESIDING AT PAZHAVOORAZHIKATHU VEEDU,
KAMUKUMCHERRY, AVANEESWARAM P.O.
IN PIDAVOOR VILLAGE, PATHANAPURAM TALUK.

BY ADV. SRI.MVS.NAMBOOTHIRY

THIS SECOND APPEAL HAVING COME UP FOR ADMISSION ON 21/11/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Thottathil B. Radhakrishnan, J.

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S.A.No.213 of 1999

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Dated this the 21st day of November, 2006.

JUDGMENT

Heard the learned Government Pleader and Adv.Sri.M.V.S.Nampoothiri, who has taken notice on behalf of the respondents.

2. It is most unfortunate that the first appeal filed by the State of Kerala has been dismissed by refusing to condone the delay of nine days, which was explained as attributed to the delay in obtaining the administrative sanction of the District Collector. According to the court below, no sufficient cause was shown to condone the delay. It is quite baffling that the court below found it difficult to condone the short delay of nine days, particularly when a dispute of title to land between the Government on the one hand and the citizen on the other is the issue involved in the appeal by the State.

3. It is still unfortunate that this second

appeal against such a decision had been lingering in this Court from 1999, for want of proper prosecution of the second appeal. This is quite apparent from the fact that this second appeal has come up for admission today, after being once dismissed for default and then restored. Even this second appeal is being entertained after condoning delay. I am satisfied that the impugned order refusing to condone delay of nine days is contrary to law going by the facts of the case and the first appeal filed by the State deserves to be entertained and considered by the court below.

In the aforesaid circumstances, the impugned order and the resultant dismissal of the first appeal is set aside and the matter is remitted to the court below with a direction to expedite the final disposal of the first appeal. Parties to appear before the court below on 20th December, 2006.

Thottathil B.Radhakrishnan,
Judge.

sl.

Thottathil B. Radhakrishnan, J.

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S.A.No.213 of 1999

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JUDGMENT

Dated:21-11-2006